

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

) MDL No. 1456  
) Master File No. 1:01-CV-12257-PBS  
) Sub-Category Case No. 1:08-CV-11200

THIS DOCUMENT RELATES TO:

*United States ex rel. Linnette Sun and Greg  
Hamilton, Relators*

v.

*Baxter Hemoglobin Therapeutics and Baxter  
International Inc.*

) Judge Patti B. Saris  
)  
)  
)  
)

**BAXTER INTERNATIONAL INC.'S CONSENTED TO MOTION FOR LEAVE  
TO FILE A SUPPLEMENTAL REPLY BRIEF IN FURTHER SUPPORT  
OF ITS MOTION TO DISMISS RELATORS' COMPLAINT**

On September 30, 2009, Baxter International Inc. ("Baxter") filed a Reply brief in support of its August 14, 2009 Motion to Dismiss. On October 15, 2009, this Court granted Baxter's September 23, 2009 Motion for Discovery and an Extension of Time (Sun Sub-Docket No. 75). In that Motion, Baxter requested leave to take limited depositions of Relators Linnette Sun and Greg Hamilton, focusing on the jurisdictional deficiencies in Relators' Complaint and Relators' claims of original source status under the False Claims Act. These depositions took place on January 19 and January 21, 2010. Prior to these depositions, Baxter had served document production requests on the Relators and had obtained documents from them.

Baxter gleaned additional material information relevant to its Motion to Dismiss from the documents that were produced and the depositions. Baxter therefore requests leave to submit this Supplemental Reply Brief in advance of the February 9, 2010 hearing date on its Motion to Dismiss. Counsel for Relators does not oppose this supplemental briefing and has agreed that it will file any additional briefing of its own on or before February 3, 2010.

Respectfully submitted,

<p>Dated: January 27, 2010</p>	<p><u>/s/ Ruchi Jain</u> J. Andrew Jackson Merle M. DeLancey Tina D. Reynolds Ruchi Jain <b>DICKSTEIN SHAPIRO LLP</b> 1825 Eye Street NW Washington, DC 20006 Telephone: (202) 420-2200 Facsimile: (202) 420-2201 <i>Admitted pro hac vice</i></p> <p>Peter E. Gelhaar (BBO #188310) <b>DONNELLY, CONROY &amp; GELHAAR, LLP</b> One Beacon Street, 33rd Floor Boston, MA 02108 Telephone: (617) 720-2880 Facsimile: (617) 720-3554</p> <p>Counsel for Defendant Baxter International Inc.</p>
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**CERTIFICATE OF SERVICE**

I hereby certify that I, Ruchi Jain, an attorney, electronically filed the foregoing MOTION FOR LEAVE TO FILE A SUPPLEMENTAL REPLY BRIEF IN FURTHER SUPPORT OF ITS MOTION TO DISMISS with the Clerk of the Court for the District of Massachusetts using the Court's CM/ECF system on January 27, 2010. I also caused a true and correct copy of the foregoing document to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, for posting and notification to all parties.

**/s/ Ruchi Jain**

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